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**FILED**  
JUN 29 2015  
RICHARD W. WIEK  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**EDL**

RONALD CUPP,

Plaintiffs,

vs.

SETH J. FEINBERG;

Defendant.

**CV 15 3010**

) CASE NO:  
)  
) VERIFIED COMPLAINT FOR DAMAGES  
)  
) VIOLATION OF 47 USC 227 *et seq.* TCPA;  
) VIOLATION OF 15 USC 1692 *et seq.*  
) FDCPA;  
) VIOLATION OF CALIFORNIA  
) ROSENTHAL FAIR DEBT COLLECTION  
) PRACTICES ACT CC 1788 *et seq.*  
)  
) DEMAND FOR TRIAL BY JURY  
)  
)

**COMPLAINT**

Plaintiff, RONALD CUPP, individually hereby sues Defendant SETH J. FEINBERG. for violations of the FDCPA 15 USC §1692, violations of the TCPA 47 USC §227, and the California Rosenthal Fair Debt Collection Practices Act Civil Code 1788.

**PRELIMINARY STATEMENT**

1. This is an action for damages and injunctive relief brought by Plaintiff against Defendant for violations of the Telephone Consumer Protection Act (TCPA) 47 USC §227(b)(1)(A), Telephone Consumer Protection Act (TCPA) 47 USC §227(b)(1)(A)(iii), Fair Debt

1 Collection Practices Act (FDCPA) 15 U.S.C. §1692c(a)(1), Fair Debt Collection  
2 Practices Act (FDCPA) 15 U.S.C. §1692d(5) and Fair Debt Collection Practices Act  
3 (FDCPA) 15 U.S.C. §1692d(6), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C.  
4 §1692e(10), the California Rosenthal Fair Debt Collection Practices Act (CFDCPA).

- 5  
6 2. Plaintiff contends that the Defendant has violated such laws by repeatedly harassing  
7 Plaintiff in attempts to collect alleged but nonexistent debt.

8 **JURISDICTION AND VENUE**

- 9 3. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3), 15 U.S.C. §1692k(d),  
10 California Stat. § 1788, and supplemental jurisdiction exists for the state law claims  
11 pursuant to 28 U.S.C. §1367, Jurisdiction arises under Cal. Civ. Pro. §410.10. Defendant  
12 conducts business in the state of California and therefore, personal jurisdiction is  
13 established.  
14

- 15 4. Venue is proper pursuant to 28 U.S.C. §1391b and Cal. Civ. Pro. §395(a). Venue in this  
16 District is proper in that the Plaintiff resides here, the Defendants transact business here,  
17 and the conduct complained of occurred here.  
18

19 **PARTIES**

- 20 5. Plaintiff, RONALD CUPP, ("CUPP") is a natural person and is a resident of Sonoma  
21 County, California.  
22  
23 6. Upon information and belief Defendant, SETH J. FEINBERG ("FEINBERG") is a  
24 natural person who's office is at 1000 Broadway, Suite 200H, Oakland, CA 94607.  
25  
26 7. Defendant SETH J. FEINBERG is a debt collector, subject to the Fair Debt Collection  
27 Practices Act, 15 U.S.C. §1692 & seq. ("FDCPA").  
28

1 8. Defendant SETH J. FEINBERG is an attorney, an entity which collects debts, bringing it  
2 within the ambit of the California Rosenthal Fair Debt Collection Practices Act Civil  
3 Code 1788 (“CFDCPA”).

4 **FACTUAL ALLEGATIONS**

5 9. Plaintiff has no prior or present established relationship with the Defendant SETH J.  
6 FEINBERG.

7 10. Plaintiff has never given Defendant express permission to call Plaintiff’s cellular phone.

8 11. Plaintiff has no contractual obligation to pay Defendant SETH J. FEINBERG.

9 12. On June 4, 2015 at 12:07 p.m. Defendant SETH J. FEINBERG called Plaintiff’s cell  
10 phone 707-318-9929 from number 510-648-3533 with no prior permission given by  
11 Plaintiff. **(Exhibit A).**

12 13. On June 4, 2015 at 12:07 p.m. Defendant SETH J. FEINBERG asserted a right which it  
13 lacks, to wit, the right to enforce a debt.

14 14. On June 4, 2015 at 12:07 p.m. Defendant SETH J. FEINBERG failed to identify that they  
15 were debt collectors attempting to collect a debt.

16 15. On June 4, 2015 Defendant SETH J. FEINBERG attempted to collect a debt by  
17 attempting rescission of Plaintiff’s valid negotiable instrument(s), to wit: a private  
18 promissory note and Deed of Trust.

19 16. On June 12, 2015 Defendant SETH J. FEINBERG continued to collect a debt by  
20 attempting an Ex-Parte Hearing in Alameda Superior Court Case RG15756876, by false  
21 and deceptive means, stating service (collection attempt) was proper in February 2015.

22 **COUNT I**  
23 **VIOLATIONS OF THE TELEPHONE COMMUNICATIONS ACT 47 U.S.C.**  
24 **§227(b)(1)(A)(iii) BY DEFENDANT SETH J. FEINBERG.**

25 17. Plaintiff alleges and incorporates the information in all previous paragraphs.



1 18. Defendant SETH J. FEINBERG has called the Plaintiffs cellular phone contrary to 47  
2 U.S.C. §227(b)(1)(A)(iii).

3 19. 47 U.S.C. §227(b)(1)(A)(iii) states in part;

4 (1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any  
5 person outside the United States if the recipient is within the United States—

6 (A) to make any call (other than a call made for emergency purposes or made with the prior  
7 express consent of the called party) using any automatic telephone dialing system or an  
artificial or prerecorded voice—

8 (iii) to any telephone number assigned to a paging service, cellular telephone service,  
9 specialized mobile radio service, or other radio common carrier service, or any service for  
10 which the called party is charged for the call;

11 20. Defendant SETH J. FEINBERG has demonstrated willful or knowing non-compliance  
12 with 47 U.S.C. §227(b)(1)(A)(iii) by calling the Plaintiff's number, which is assigned to a  
13 cellular telephone service. The Plaintiff has never given SETH J. FEINBERG permission  
14 to call Plaintiffs cellular phone. The call is subject to treble damages pursuant to 47  
15 U.S.C. §227(b)(3) as it was intentional. An unintentional call carries a damage amount of  
16 \$500; an intentional call carries a damage amount of \$1,500 per violation.

18 21. Plaintiff and SETH J. FEINBERG do not have an established business relationship within  
19 the meaning of 47 U.S.C. §227. Plaintiff is entitled to damages of \$1500 per violation  
20 pursuant to 47 U.S.C. §227(b)(3)(B).

21 **WHEREFORE,** Plaintiff demands judgment for damages against SETH J. FEINBERG for  
22 actual, statutory, and punitive damages, attorney's fees and costs, pursuant to 47 U.S.C §227.  
23

24 **COUNT II**  
25 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.**  
26 **§1692c(a)(1) BY DEFENDANT SETH J. FEINBERG.**

27 22. Plaintiff alleges and incorporates the information in all previous paragraphs.  
28

1 23. Defendant SETH J. FEINBERG placed telephone call to the Plaintiff's cellular  
2 telephone.

3 24. Defendant knew or should have known that the phone calls made were inconvenient to  
4 the consumer.

5 25. Defendant SETH J. FEINBERG violated 15 U.S.C. §1692c(a)(1) by calling Plaintiff's  
6 cellular phone no prior permission given by Plaintiff.

7 26. Such communication is prohibited by 15 U.S.C. §1692c(a)(1).

8 27. 15 U.S.C. §1692c(a)(1) states in part;

9  
10 (a) COMMUNICATION WITH THE CONSUMER GENERALLY. Without the prior  
11 consent of the consumer given directly to the debt collector or the express permission of a  
12 court of competent jurisdiction, a debt collector may not communicate with a consumer in  
13 connection with the collection of any debt—

14 (1) at any unusual time or place or a time or place known or which should be known to be  
15 inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary,  
16 a debt collector shall assume that the convenient time for communicating with a consumer is  
17 after 8 o'clock antimeridian and before 9 o'clock postmeridian, local time at the consumer's  
18 location;

19 **WHEREFORE**, Plaintiff demands judgment for damages against SETH J. FEINBERG for  
20 actual, statutory, and punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

21 **COUNT III**  
22 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C.**  
23 **§1692d(5) BY DEFENDANT SETH J. FEINBERG.**

24 28. Plaintiff alleges and incorporates the information in all previous paragraphs.

25 29. Defendant SETH J. FEINBERG violated 15 U.S.C. §1692d(5) by calling the Plaintiff  
26 causing the Plaintiff's phone to ring with the intent to annoy, abuse, or harass the Plaintiff  
27 with no prior permission given by Plaintiff.

28 30. This intentional calling by SETH J. FEINBERG has caused the Plaintiff undue stress,  
relationship issues, nervousness and embarrassment.

31. 15 U.S.C. §1692d(5) states in part;

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

**WHEREFORE**, Plaintiff demands judgment for damages against SETH J. FEINBERG for actual, statutory, and punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

**COUNT IV**  
**VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C. §1692e(10) BY DEFENDANT SETH J. FEINBERG.**

32. Plaintiff alleges and incorporates the information in all previous paragraphs.

33. Defendants SETH J. FEINBERG violated 15 U.S.C. §1692e(10) by the use of a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer.

34. 15 U.S.C. §1692e(10) states in part;

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

**WHEREFORE**, Plaintiff demands judgment for damages against SETH J. FEINBERG for actual, statutory, and punitive damages, attorney's fees and costs, pursuant to 15 U.S.C. §1692.

**COUNT V**  
**VIOLATION OF VIOLATION OF CALIFORNIA ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT CC 1788 et seq. BY DEFENDANT SETH J. FEINBERG.**

35. Plaintiff alleges and incorporates the information in all previous paragraphs.



1 36. Plaintiff is a consumer within the meaning of 15 USC 1692 *et seq.*

2 37. Defendant is seeking to collect a consumer debt from Plaintiff as defined by Cal. Civ.  
3 §1788(f).

4 38. The account in question is a consumer credit transaction as defined by Cal. Civ.  
5 §17882(e) as Plaintiff has allegedly received property, services or money from the  
6 Defendants client on an extension of credit and such property, services or money was  
7 used primarily for personal, family or household purposes.

8 39. Defendant violated §1788.11(d) of the CFDCPA by placing collection calls to Plaintiff  
9 and required Court Appearance so as to annoy Plaintiff.

10 40. Defendant violated §1788.11(e) of the CFDCPA by placing collection calls to Plaintiff  
11 and requiring court appearance with such frequency as to be unreasonable and to  
12 constitute a harassment to Plaintiff under the circumstances.

13 41. Defendant violated the §1788.17 of the CFDCPA by continuously failing to comply with  
14 the statutory regulations contained within the FDCPA 15 USC §1692 *et seq.*

15 i. Defendant violated §1692d of the FDCPA by engaging in conduct the natural  
16 consequence of which is to harass, oppress, or abuse the Plaintiff.

17 ii. Defendant violated §1692d(5) of the FDCPA by causing a telephone ring and  
18 requiring court appearance with the intent to annoy, abuse, and harass Plaintiff.

19 **WHEREFORE**, Plaintiff demands judgment for damages against SETH J. FEINBERG for  
20 actual, statutory, and attorney's fees pursuant to §1788.30(b) and costs, pursuant to §1788.30(c).

21 **DEMAND FOR TRIAL BY JURY**

1 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

2 Respectfully submitted this 29<sup>th</sup> of June, 2015

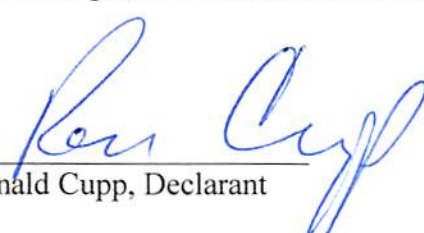
3  
4   
5 RONALD CUPP  
6 150 Raley Town Center Ste 2512  
7 Rohnert Park, California [94928]  
8 707-318-9929  
9 [ronc2009@gmail.com](mailto:ronc2009@gmail.com)

10  
11 **VERIFICATION**

12 Declarations of Ronald Cupp

13 I, Ronald Cupp declare as follows:

- 14 1. I am the Plaintiff in the above entitled matter.
- 15 2. I am of age, sound of mind and competent to testify to facts based on first  
16 hand knowledge of above items so stated.
- 17 3. I have been damaged financially, socially and emotionally as a result of  
18 Defendant's unlawful actions and conduct.
- 19 4. I have read the foregoing pleading and know the facts therein stated to be  
20 true and correct.
- 21 5. I declare, under penalty of perjury pursuant to the laws of California and the  
22 United States, that the foregoing is true and correct to the best of my  
23 knowledge, information and belief.

24  
25  
26   
27 Ronald Cupp, Declarant  
28





RONALD CUPP  
15 ECHO AVE  
CORTE MADERA, CA 94925-1826

Page: 7 of 22  
Bill Cycle Date: 05/17/15 - 06/16/15  
Account: 436125136442

Visit us online at: [www.att.com](http://www.att.com)

**707 318-9929**  
RONALD CUPP

Call Detail - Continued

Time	Place Called	Number Called	Rate Code	Feature Code	Min	Airtime Charges	LD/Addl Charges
Monday, 06/01							
09:23a	SNFC C CA	415-377-8090	SDDV		3	0.00	0.00
09:44a	FRNK M CA	510-396-7189	SDDV		1	0.00	0.00
09:59a	INCOMI CL	707-393-8239	SDDV		14	0.00	0.00
10:22a	SANTA CA	707-953-3552	SDDV		1	0.00	0.00
10:26a	INCOMI CL	707-483-7689	SDDV		2	0.00	0.00
11:21a	INCOMI CL	415-453-8927	SDDV		2	0.00	0.00
11:35a	SANTA CA	707-888-8257	SDDV		2	0.00	0.00
11:52a	INCOMI CL	707-478-2012	SDDV		1	0.00	0.00
12:40p	SNFC C CA	415-377-8090	SDDV		2	0.00	0.00
01:09p	SANTA CA	707-478-2012	SDDV		1	0.00	0.00
01:10p	SANTA CA	707-545-3386	SDDV		1	0.00	0.00
01:23p	INCOMI CL	415-377-8090	SDDV		1	0.00	0.00
01:33p	SNFC C CA	415-377-8090	SDDV		1	0.00	0.00
02:27p	INCOMI CL	707-478-2012	SDDV		2	0.00	0.00
02:29p	SAUSAL CA	415-480-9691	SDDV		1	0.00	0.00
02:41p	INCOMI CL	415-480-9691	SDDV		1	0.00	0.00
03:32p	SNFC C CA	415-377-8090	SDDV		1	0.00	0.00
03:33p	INCOMI CL	415-377-8090	SDDV		1	0.00	0.00
04:08p	INCOMI CL	707-321-3711	SDDV		4	0.00	0.00
04:43p	INCOMI CL	415-377-8090	SDDV		1	0.00	0.00
04:43p	INCOMI CL	707-280-7425	SDDV		2	0.00	0.00
06:13p	INCOMI CL	415-377-8090	SDDV		3	0.00	0.00
07:45p	SANTA CA	707-321-3711	SDDV		8	0.00	0.00
08:06p	SANTA CA	707-321-3711	SDDV		4	0.00	0.00
08:27p	SANTA CA	707-321-3711	SDDV		1	0.00	0.00
08:29p	SNFC C CA	415-377-8090	SDDV		1	0.00	0.00
08:30p	INCOMI CL	707-321-3711	SDDV		3	0.00	0.00
08:39p	INCOMI CL	510-396-7189	SDDV		13	0.00	0.00
Tuesday, 06/02							
08:50a	SANTA CA	707-888-8257	SDDV		2	0.00	0.00
10:01a	INCOMI CL	707-321-3711	SDDV		2	0.00	0.00
10:02a	SANTA CA	707-322-1280	SDDV		7	0.00	0.00
10:11a	INCOMI CL	707-321-3711	SDDV		10	0.00	0.00
10:20a	CALL WAIT	707-322-1280	SDDV	CW	6	0.00	0.00
10:26a	SANTA CA	707-321-3711	SDDV		7	0.00	0.00
10:33a	INCOMI CL	707-321-3711	SDDV		4	0.00	0.00
11:11a	INCOMI CL	707-321-3711	SDDV		4	0.00	0.00
11:30a	INCOMI CL	707-483-7689	SDDV		30	0.00	0.00
12:00p	SAUSAL CA	415-480-9691	SDDV		1	0.00	0.00
12:10p	SNFC C CA	415-377-8090	SDDV		7	0.00	0.00
12:33p	INCOMI CL	347-662-2497	SDDV		1	0.00	0.00
01:08p	INCOMI CL	707-321-3711	SDDV		1	0.00	0.00
01:09p	SANTA CA	707-321-3711	SDDV		9	0.00	0.00
01:21p	SNFC C CA	415-377-8090	SDDV		2	0.00	0.00
01:23p	SAUSAL CA	415-480-9691	SDDV		1	0.00	0.00
01:24p	INCOMI CL	415-480-9691	SDDV		1	0.00	0.00
01:47p	INCOMI CL	661-623-9396	SDDV		12	0.00	0.00
09:47p	INCOMI CL	707-321-3711	SDDV		13	0.00	0.00

Time	Place Called	Number Called	Rate Code	Feature Code	Min	Airtime Charges	LD/Addl Charges
Wednesday, 06/03							
09:24a	INCOMI CL	707-596-2902	SDDV		1	0.00	0.00
11:35a	INCOMI CL	707-527-1015	SDDV		4	0.00	0.00
12:47p	INCOMI CL	707-321-3711	SDDV		1	0.00	0.00
12:52p	PTLM M CA	707-364-1340	SDDV		2	0.00	0.00
04:06p	SANTA CA	707-217-5013	SDDV		2	0.00	0.00
04:32p	ABBEVI LA	337-422-9200	SDDV		1	0.00	0.00
07:01p	SNFC C CA	415-377-8090	SDDV		2	0.00	0.00
07:02p	SANTA CA	707-332-6176	SDDV		7	0.00	0.00
07:09p	INCOMI CL	415-377-8090	SDDV		1	0.00	0.00
07:13p	INCOMI CL	707-322-1280	SDDV		3	0.00	0.00
Thursday, 06/04							
09:15a	SAN RA CA	415-444-7180	SDDV		9	0.00	0.00
09:50a	SANTA CA	707-542-1154	SDDV		5	0.00	0.00
09:57a	SANTA CA	707-542-1154	SDDV		3	0.00	0.00
10:01a	SAUSAL CA	415-480-9691	SDDV		1	0.00	0.00
10:02a	INCOMI CL	415-480-9691	SDDV		1	0.00	0.00
10:56a	INCOMI CL	707-235-9842	SDDV		2	0.00	0.00
11:02a	SANTA CA	707-483-7689	SDDV		2	0.00	0.00
11:05a	INCOMI CL	707-235-9842	SDDV		2	0.00	0.00
11:12a	SANTA CA	707-235-9842	SDDV		1	0.00	0.00
11:29a	INCOMI CL	707-322-1280	SDDV		2	0.00	0.00
11:38a	SANTA CA	707-235-9842	SDDV		2	0.00	0.00
11:42a	SANTA CA	707-543-3006	SDDV		2	0.00	0.00
12:03p	INCOMI CL	415-453-3453	SDDV		1	0.00	0.00
12:07p	INCOMI CL	510-648-3533	SDDV		13	0.00	0.00
12:51p	INCOMI CL	707-787-7171	SDDV		1	0.00	0.00
01:36p	INCOMI CL	415-377-8090	SDDV		6	0.00	0.00
01:41p	ABBEVI LA	337-422-9200	SDDV		1	0.00	0.00
01:44p	SAUSAL CA	415-272-6893	SDDV		1	0.00	0.00
01:44p	CALL WAIT	337-422-9200	SDDV	CW	2	0.00	0.00
01:47p	PTLM M CA	707-787-7171	SDDV		2	0.00	0.00
02:40p	SANTA CA	707-217-5013	SDDV		3	0.00	0.00
02:42p	CORTHA CA	415-924-3625	SDDV		3	0.00	0.00
02:53p	SAUSAL CA	415-480-9691	SDDV		1	0.00	0.00
02:53p	PTLM M CA	707-787-7171	SDDV		1	0.00	0.00
02:54p	PTLM M CA	707-787-7171	SDDV		1	0.00	0.00
02:56p	INCOMI CL	707-787-7171	SDDV		1	0.00	0.00
03:01p	SAUSAL CA	415-272-6893	SDDV		1	0.00	0.00
03:02p	SANTA CA	707-322-1280	SDDV		1	0.00	0.00
03:13p	SANTA CA	707-332-6176	SDDV		1	0.00	0.00
03:18p	INCOMI CL	415-480-9691	SDDV		1	0.00	0.00
03:25p	INCOMI CL	415-272-6893	SDDV		3	0.00	0.00
04:12p	INCOMI CL	707-217-5013	SDDV		2	0.00	0.00
05:11p	To11 F CL	800-488-1490	SDDV		1	0.00	0.00
05:19p	INCOMI CL	707-332-6176	SDDV		3	0.00	0.00
07:35p	INCOMI CL	707-892-3297	SDDV		1	0.00	0.00
Friday, 06/05							
09:34a	SANTA CA	707-486-4486	SDDV		18	0.00	0.00
09:53a	INCOMI CL	707-486-4486	SDDV		8	0.00	0.00
10:19a	SNFC C CA	415-986-5900	SDDV		4	0.00	0.00
11:46a	FRNK M CA	510-648-3533	SDDV		1	0.00	0.00
12:38p	SANTA CA	707-217-5013	SDDV		1	0.00	0.00
02:00p	SANTA CA	707-217-5013	SDDV		3	0.00	0.00
02:15p	SANTA CA	707-543-3230	SDDV		3	0.00	0.00

EXHIBIT A